

REMARKS

In an Office Action mailed May 17, 2006, claims 1, 4, 15, 17 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Szlam in view of White, and claims 2, 3, 7 and 16 appear to have been rejected under 35 U.S.C. §103(a) as being unpatentable over Szlam in view of White and further in view of Hamscher in view of Makuch. Additionally, claims 1, 4, 7, 15 and 18 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2 and 5-7 of co-pending U.S. Patent Application No. 10/011523 in view of Szlam, and claims 1, 3, 4, 7, 15 and 18 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of co-pending U.S. Patent Application No. 10/200262 in view of Szlam. The Abstract of the disclosure was objected to as having more than one paragraph and having implied language. Applicants respectfully traverse and request reconsideration.

Applicants wish to thank the Examiner for the removal of the finality of the previous Office Action and for the notice that the rejections under 35 U.S.C. § 112, ¶2 and 35 U.S.C. § 101 have been withdrawn.

Applicants have amended the Abstract as noted above to have only one paragraph and have removed implied language. Accordingly, Applicants respectfully submit that the Abstract is in suitable condition to support allowance.

Claims 1, 4, 15, 17, and 18 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Szlam in view of White. As an initial matter, Applicants note that, apparently referring to M.P.E.P. § 2145(d), the Examiner has cited In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981) and In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986) to state that the Applicants cannot show non-obviousness by attacking references individually where, as here, the rejections are based on combinations of references. [Office Action of May

17, 2006, “Response To Arguments”] However, this application of Keller and Merck overlooks the instruction, found in M.P.E.P. § 2143.03, that in order to establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). (See also M.P.E.P. § 2142: “To establish a prima facie case of obviousness . . . the prior art reference (or references when combined) must teach or suggest all the claim limitations.”) Thus, to the extent that the Applicants have treated the Szlam and White references separately during the course of prosecution of the instant application and in the arguments presented below, they have done so in order to demonstrate that a prima facie case of obviousness has not been made. Stated another way, Keller and Merck do not render the Applicants’ arguments improper because the inquiries of Keller and Merck are never reached; the burden is not on the Applicants to demonstrate non-obviousness because a prima facie case of obviousness has not been made in the first place.

As to the specific rejections of claims 1, 4, 15, 17 and 18, Applicants respectfully submit that Szlam does not teach the claimed limitations as alleged in the Office Action. For example, Szlam does not teach the classification of each person into “at least one of a plurality of attitudinal elements...each of said elements suggesting a debt collection strategy which is then assigned...and employed”. Szlam teaches a customer service system that determines the precise method of contact to be used for each *individual* customer by analyzing data kept for each such customer within a Customer Sensitivity™ profile (col. 6, line 56 - col. 7, line 15). The instant application teaches a method of classifying each debtor into at least one attitudinal *segment* based on data collected about the individual. A debt collection strategy, such as what collection agent(s) to use and what methods to use in contacting debtors, is then determined for each entire segment, and the *same* strategy is applied to *every* individual in that segment (paragraph [0048],

fourth sentence; paragraph [0054]; and others). Moreover, the only grouping elements taught by Szlam are queues into which customers may be placed after an initial telephone contact attempt is made, and these do not constitute attitudinal elements with the functionality alleged in the Office Action. Placement of a customer into one of such queues is determined by a broad characteristic of the customer, such as the customer's request for callback at a later time (col. 5, lines 21-22), and thus each queue alone does not provide all required information about contact preferences of the customers within the queue. Each customer's individualized Customer Sensitivity™ profile contains this information and specifies the required customer contact preferences in full detail (col. 6, line 56 - col. 7, line 15). For these reasons, the queues are not attitudinal classifications that can themselves facilitate the selection and execution of a contact strategy, and such attitudinal classifications are actually taught away from by Szlam because of the use of an individualized profile for each customer.

Regarding White, Applicants acknowledge that segmentation of debt is taught, but respectfully submit that this unrelated teaching of segmentation by White fails, when combined with Szlam, to teach or suggest the claim limitation of “*attitudinal* segments” with the functionality described as in the instant claims. White alone also fails to teach attitudinal segments; White teaches segmentation only according to historical data and past behavior. For example, cited paragraph [0022] teaches “segmentation of debt . . . having similar characteristics For example, debtors could be divided into low, medium and high risk groups based upon a credit rating The paper could be further subdivided according to...the size of the debt, relative size of the debt to the debtors credit limit, number of payments previously received, whether or not the debtor’s telephone number is current, how long the paper has been charged off or other factors.” Conversely, the instant application specifically mentions the disadvantages

inherent in such an approach (paragraphs [0012] and [0013]) and distinctly teaches attitudinal classification (among other, see paragraph [0014], first sentence). In view of White's deficiencies described above, White also cannot teach the use of modeling in the presently claimed context, i.e. "modeling a likelihood of debt payment by the debtor *based upon the at least one attitudinal segment*" (claims 4 and 18, emphasis added).

As to the Office Action's citation of scripts, which appears to refer to claim 17, Applicants respectfully reassert the remarks made in the response filed April 9, 2006 that, in view of the amendment filed concurrently with that response, claim 17 no longer mentions any script. Accordingly, Applicants respectfully submit that this ground of rejection remains moot.

For these reasons presented above, Applicants respectfully submit that Szlam and White, either alone or in combination, fail to teach or suggest all of the limitations of claims 1, 4, 15, 17 and 18. Accordingly, the claims are believed to be in condition for allowance.

Claims 2, 3, 7 and 16 appear to have been rejected under 35 U.S.C. §103(a) as being unpatentable over Szlam in view of White and further in view of Hamscher in view of Makuch. Applicants respectfully submit that the remarks made in the response filed April 9, 2006 do not appear to have been fully considered, as the Office Action presents grounds of rejection for these claims that are identical to those previously made. Accordingly, Applicants respectfully reassert the remarks from the previous response; namely, the Office Action states that claims 2, 7 and 16 are rejected based on Szlam in view of White and further in view of Makuch, but then, without further explanation, immediately proceeds to state that claim 3 is rejected based on Szlam in view of White and further in view of Hamscher in view of Makuch. Only one explanation of a basis of rejection then follows this latter statement, despite the two different grounds of rejection mentioned for the two different sets of claims. Furthermore, this sole explanation serves only to

highlight the teaching of “segments that include debtors who value the ability to restructure debt payment or debtors who are concerned about credit rating”, stating that Szlam, White, and Hamscher fail to teach such segments, but that Makuch discloses these characteristics of debtors. However, this discussion appears to be moot because none of claims 2, 3, 7 or 16 have included such limitations since the Applicants’ amendment mailed June 9, 2005. Accordingly, these claims are believed to be in condition for allowance. Should Examiner persist in either or both of the rejections of this set of claims based on one of the previously cited grounds, Applicants respectfully reassert the request made in the response filed April 9, 2006 that Examiner clearly set forth the basis of each claim rejection in a non-final Office Action.


Claims 1, 4, 7, 15 and 18 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2 and 5-7 of co-pending U.S. Patent Application No. 10/011523 in view of Szlam. Applicants respectfully reassert their remarks in the response filed April 9, 2006. Additionally, Applicants reserve the right to file a Terminal Disclaimer if necessary.

Claims 1, 3, 4, 7, 15 and 18 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of co-pending U.S. Patent Application No. 10/200262 in view of Szlam. Applicants respectfully reassert their remarks in the response filed April 9, 2006. Additionally, Applicants reserve the right to file a Terminal Disclaimer if necessary.

Accordingly, Applicants respectfully submit that the claims are in condition for allowance and that a timely Notice of Allowance be issued in this case. The Examiner is invited to contact the below-listed attorney if the Examiner believes that a telephone conference will advance the prosecution of this application.

Respectfully submitted,

Date: 8/17/2006

By: 
Christopher P. Moreno
Registration No. 38,566

Vedder, Price, Kaufman & Kammholz, P.C.
222 N. LaSalle Street
Chicago, Illinois 60601
Phone: (312) 609-7842
Fax: (312) 609-5005